

ANDOVER BOARD OF HEALTH

Minutes

March 8, 2010, 6 P.M.

1st Floor Conference Room

36 Bartlet Street

The Board of Health meeting was called to order at 6:02 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **Regular Meeting of February 8, 2010**

Motion by Ms. Martin, seconded by Ms. Kellman to approve the Minutes of the Meeting of February 8, 2010. Unanimous approval.

III. Appointments & Hearings

- **6:00 p.m. – Atty. Michael Gerstein for 294 North Main Street (Continued Appeal)** – Attorney Michael Gerstein, Counsel retained by the Special Administrator for the Estate of James Bougioukas, was present. Mr. Carbone gave the Board Members a copy of an e-mail he received from Mr. Gerstein. Mr. Gerstein explained that he had no specific written plan yet. Mr. Gerstein and the tenant's Counsel have spoken to make some arrangements where the tenant may be able to leave with a satisfactory settlement; however no such settlement has been reached at this time. The court case in the Northeast Housing Court in Lawrence, with a complaint to evict for non-payment of rent, is still in the process of discovery. Mr. Gerstein's understanding from the last Board of Health Meeting was that if the tenant left, then at least the tenancy issue would be resolved; however, the underlying problem of mold in the home would still remain. He explained to the Estate that the Board may issue an order. The tenant has not paid rent since last July, with the expectation that if there was litigation there would be some degree of offset of what would be the proper value of that tenancy. From the Estate level the tenancy issue will be addressed, but the question remains of when and how the remediation will be addressed. Once the tenant leaves, the Estate realizes it cannot rent out the property. Ms. Martin asked how the Board could make sure the property is not rented out. Mr. Carbone stated that the Board could issue a Condemnation ORDER, but that is easier to do when the property is vacant. Mr. Gerstein stated that he could give the Board 100% assurance that the property would not be rented out until the mold issue is dealt with, assuming an agreement is reached and the tenant moves out. Mr. Carbone stated that, instead of a Condemnation ORDER, the Board could require a written agreement that states the Estate will not rent out the property until the mold issue is resolved. Mr. Gerstein's expectation was that the proposal will be accepted by the tenant, as indicated by the tenant's Counsel, and then the tenant would move within the next 30 to 60 days. As

far as the court case goes, Mr. Gerstein expects discovery to be complete in the next two weeks, then to possibly be in court the first Thursday in April. Mr. Gerstein suggested the Board continue this matter to the next Board of Health Agenda with the understanding that we have a written plan in effect and the understanding that if the tenant does move out, the property will not be rented. Mr. Carbone concurred, and suggested that the Board of Health issue an ORDER under the Authority of Chapter II of the State Sanitary Code and M.G.L.c. 111, § 122 that a written remediation plan be submitted one week prior to the next Board of Health Meeting of April 12, 2010 and if the dwelling becomes vacated, it not be reoccupied until such time as remediation is complete.

Motion by Dr. Miller, seconded by Ms. Martin, that under the authority of Chapter II of the State Sanitary Code, 105 CMR 410.000, and M.G.L.c. 111, § 122, the Estate shall submit to the Board of Health a written remediation plan by April 5, 2010, and if the property should become vacant, it will stay vacant until the violation is remediated and an inspection by this office confirms compliance with the ORDER and with Chapter II. Unanimous Approval.

IV. Discussion

- **Annual Town Meeting Articles** – There are three preliminary articles Mr. Carbone felt the Board would be interested in taking a stand on.
 1. **Article P-14, Revolving Accounts** – Mr. Carbone explained to the Board that there are two revolving accounts of interest. The first is for the Community Development and Planning Department (CD&P) for legal advertisements and peer reviews. Any balances of money in the CD&P accounts go back to the applicants when all fees have been taken out at completion of the project. The second is for the Health Division for Health Clinics, staffing, and purchase of vaccine, and is replenished with Medicare flu reimbursements and vaccination fees.
 2. **Article P-25, Sewer Main Construction and Reconstruction** – Mr. Carbone explained that this was for general repair and maintenance.
 3. **Article P-55, Lincoln Circle Sewer Extension** – Mr. Carbone explained that some of Lincoln Street is already on sewer and the Engineering Department has estimated the value to extend the sewer to eight homes. Ms. Martin stated that this should have been part of the DPW's original master plan. Mr. Carbone replied that unfortunately that did not happen, so they will go ahead with plans for sewer extension if the area is in need or at high risk.

The Board determined that it had no issues with the three Articles. Motion by Ms. Martin, seconded by Ms. Kellman to support all three Articles. Unanimous Approval.

- **2009 Annual Report** – Mr. Carbone stated that he was pleased with all that was accomplished in the past year considering the loss of staffing in the Spring due to injuries to several staff members. There were a lot more Flu vaccinations given in 2009 due to the addition of H1N1 vaccinations to the Seasonal Flu vaccinations. Mandated food inspection output has been good; however, the use of grant money to hire a contracted inspector is the reason the output has been so good. Inspections are still not being conducted twice a year in each establishment due to the time it takes to conduct multiple inspections at high risk establishments. Mr. Carbone's concern is that if grant money is no longer received, then inspections will suffer as well as training that is also funded by grant money. There was a drop between permits issued in 2007 and 2008 due to eliminating the Milk and Oleo license and incorporating that fee into the fee for Food Establishment licenses.

Complaints were actually lower this year than last year, which was a little surprising. Communicable diseases were up due to the increase of Lyme Disease, new H1N1 Flu, and Hepatitis C. Ms. Kellman observed that Andover was the lead agency in the Healthy Communities Tobacco Control Program, Greater Lawrence Bioterrorism Preparedness Coalition, and the Greater River Valley Medical Reserve Corps. Mr. Carbone stated that the advantage to being the lead agency is that the lead agency keeps a percentage of the Grant money for overhead costs, and some of that money is used to pay for an outside food contractor. Ms. Martin questioned why we have Tobacco Control but do not check for underage drinking. Mr. Carbone explained that Ron Beauregard, Tobacco Control Program Director, receives money from the State from the settlement of the tobacco companies in the past, so that money is designated to deal only with tobacco control issues. This year the CD&P Department will have a handout instead of a Power Point presentation showing budget numbers and each Division will show work load indicators. Ms. Martin suggested that the handout include the information that the Health Division is receiving subsidies for additional inspections which equates to a half an FTE per year to show that Mr. Carbone has already been looking at ways to minimize the budget.

- **Northeast Mosquito Control District Plans** – The Board discussed that the type of mosquitoes that create the most nuisances appears to be the ones who breed in the artificial containers, such as spare tires, pots, buckets and birdbaths. Mr. Carbone gave the Board a copy of an e-mail he received today from Walter Montgomery, Director of the Northeast Massachusetts Mosquito Control and Wetland Management District, about the report that was on Channel 5 last week. Ms. Martin noticed that they called out the amount of vehicles used and wondered what that was about. Mr. Carbone explained that the Districts are like regional school districts and the issue with Northeast was they had more trucks than drivers. However, it is specialized equipment so they use them for different projects.

V. Old Business

- **Salt Shed Update** – Mr. Carbone informed the Board that he sent an e-mail to Brett Lucien asking for an update, and Mr. Lucien replied that he wanted us to hold off on

scheduling a focus group meeting until they have some discussions at their level. Mr. Lucien e-mailed Mr. Carbone today and his response was he would get an answer to Mr. Carbone as soon as possible.

- **27 Kirkland Drive Update** – Mr. Carbone informed the Board that there was still no change in the condition of the property at 27 Kirkland Drive and no news at this time.

VI. Definitive Subdivision Plans

- N/A

VII. Plan Review

- A. N/A

VII. Staff Reports

A. Director's Report:

- **Accident on Rte. 495 / Diesel Fuel Spill** - Mr. Carbone informed the Board that last week he got called in from home to an accident on Rte. 495. He was called by the Deputy Fire Chief who told Mr. Carbone that he believed a truck dispensed 100 gallons of diesel fuel into a stream near the water supply. Mr. Carbone brought his laptop so he could access maps while at the site. He spent an hour with the DEP representative who was confident that they contained the spill right where the accident occurred. Mr. Carbone found that the fuel actually went into a drainage swale, not a stream. The Fire Department deployed a boom and pads to capture the fuel, and Clean Harbors came out and did a removal. There were several catch basins on both sides of the overpass, so Mr. Carbone and the DEP representative tried to determine where they led to. They couldn't get to the one nearest the accident because it was undermined by washouts, so they couldn't see where the pipes were going. When they checked another one, there was no cover and it was overgrown with brush, but they could see that there was only one pipe heading towards 93, which meant it was the end of the system and nothing was coming from the direction of the accident. Mr. Carbone brought up a couple of aerial photos and decided that all the catch basins dump to the median. He also e-mailed Mr. Lucien of the DOT Highway Division to let him know that they needed to look at the catch basins because of the bad shape they are in.
- **Director's Talk With Students at Wood Hill Middle School** – Mr. Carbone informed the Board that he spoke with the Eighth Grade Science teacher, Jane Anthony, who had been studying the Industrial Revolution with her students and was interested in having them participate in a project concerning health issues. Mr. Carbone spoke with her four classes last Tuesday and talked about what Health Departments do, concentrating on vaccinations and flu

prevention. Mr. Carbone gave the students one research project to answer two questions. First, to see if the public health interventions that were implemented because of the flu have had a positive effect on all illnesses this year. He asked the students to look at absentee rates for the last three years and tell him whether or not they think these interventions actually improved the overall health of the students. Second, to see if the students have changed their cleanliness habits such as washing their hands more often or using sanitizers. The students will be developing a survey tool and Mr. Carbone is hoping to get some preliminary numbers from them in a couple of weeks so he can bring some of those numbers with him on March 22nd when he attends the summit on the flu response. When the whole project is completed, Mr. Carbone would like to arrange a time when the Board of Health could go to the school for the presentation. The Board was receptive to that idea.

- **Internships** – Ms. Martin asked Mr. Carbone about Internships with the State. Mr. Carbone replied that this year there are so many more opportunities for Interns. He will be attending a Career Fair in Boston to talk about public health along with other health officials. He has officially applied for an Intern from the Massachusetts Department of Public Health. The State sometimes provides a small stipend and places them with Health Departments. The BU School of Public Health is also looking to place some Interns. He also has been contacted by a student from Tulane University who is interested in Intern opportunities. He has at least a half a dozen projects that could easily be taken on by someone. DPH Interns would work on an Intern project in the Spring, and BU or others would work on an Intern project in the Summer.
- **Administrative Hearing with Palmers Restaurant, John Ingalls, Owner** – Mr. Carbone informed the Board that there were a few things the Inspector told the owner to do that have not been done yet. There was a dirty bathroom and some maintenance work that was not taken care of. Mr. Ingalls and his wife were present at the Administrative Hearing and the meeting was very productive. They felt it was a good wake up call for them and their staff and were reinvigorated. Mr. Ingalls was able to supply Mr. Carbone with receipts for some of the things that were replaced, although some of the items were not the ones we requested him to do. His wife said this was an opportunity to take a good look at their practices and rethink their whole business plan. They are planning to have Cindy Rice who does Food Service training come in and conduct a seminar for the staff. Mr. Carbone felt that the meeting was very positive. There is still some physical work they need to schedule, and they promised to provide us with a schedule for that.
- **Administrative Hearing with Yama Restaurant** – Mr. Carbone informed the Board that there were still several very critical violations especially with cleanliness issues that required professional intervention. The owner and staff continue to believe they have clean surfaces, but there continues to be grease buildup and dirt on counters and hoods. The owner was called and told that he

needed to do a complete cleaning and since the restaurant was closed on Monday, that would give him the opportunity to do so and not lose any business. Mr. Carbone firmly stated to the owner that he and the Health Agent would return on Tuesday, and if the cleaning was not done to their satisfaction, they may have to do an emergency closure of the restaurant.

- **Peking Garden Inspection Update** – Mr. Carbone informed the Board that the first inspection report since the last Board of Health Meeting on February 8, 2010 came in and was still unsatisfactory. Mr. Carbone told the Board that it may see the owner, Mr. David Kiu at the April 12, 2010 Board of Health Meeting with a recommendation to revoke his license. Mr. Carbone met with Mr. Kiu, went over the report with him, pointed out the recurring violations, and told him that he needed to take control of his business. Concerning a separate issue, Mr. Carbone informed the Board that he received a complaint today from a woman who bought a spring roll for her daughter and when her daughter bit into it, she found a piece of plastic in the roll.
- **Important Dates:**
 - March 17th @ 7 p.m. – Budget Hearing with Finance Committee and Board of Selectmen (tentative date and time; could be moved to 3/24)
 - March 22nd – state-wide H1N1 Summit to Review Response
 - April 5th through 9th – Public Health Week
 - April 6th – Presentation at Library – Lyme Disease and Diabetes
 - April 12th – Board of Health Meeting
 - April 28th and 29th - Town Meeting
 - May 3rd – Board of Health Meeting

B. Nurses' Report for February, 2010 –The Nurses' Report was for informational purposes only.

C. Inspectors' Reports for February, 2010 – The Inspectors' Reports were for informational purposes only.

VIII. Board Member Reports

- N/A

IX. Adjournment

Motion by Ms. Martin, seconded by Dr. Miller to adjourn at 7:10 p.m. Unanimous approval.